

Hamlin Planning Board *Minutes*
Monday, November 4, 2013
7:30 pm

The regular scheduled meeting of the Hamlin Planning Board was called to order by Chairperson, Linda Morey at 7:30 pm at the Hamlin Town Hall located at 1658 Lake Road, Hamlin. The location of the fire exits and AED were explained for those present. Please turn off all pagers and cell phones.

Members present: Judith Hazen, Steve Lauth, Dave Martin, Linda Morey, Mark Reeves, Peter Tonery, and Dave Wolfe.

Also present: Ken Licht Town Attorney, J.P. Schepp Town Engineer, and Ed Evans Conservation Advisory Board Member.

Applicant representatives present: Adam Freeman LandTech, Rich Maier D.D.S.

Residents present: Reid Foertsch, and Nick Kramer.

A motion to approve the October 7, 2013 meeting minutes as submitted was made by Judith Hazen, seconded by Dave Wolfe.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye Peter Tonery aye, and Dave Wolfe aye. All in favor. Motion carried.

Proof of Publication

The clerk read the proof of publication.

PUBLIC HEARING
SINGLE LOT SUBDIVISION APPROVAL

JAMES E. & ALAYNE DOAN
343 MORTON ROAD, HAMLIN

Application for James E. and Alayne Doan seeking "Preliminary and Final: Single Lot Subdivision Approval pursuant to Town Code§520-66 for premises located at 343 Morton Road, Hamlin.

Richard Maier of D.D.S. represented the Doans.

We are proposing to subdivide approx. 2 acres from the farm and then the 2 acres is the house and several structures. When we first approached the Planning Board we needed a variance for the front setback which has been approved.

Chairperson Linda Morey asked for any comments.

J.P. Schepp: I haven't seen a new plan since September. Rich checked on the address. The DRC has changed the address and added the zoning for the site.

Ken Licht had no concerns

Chairperson Linda Morey opened the *Public Hearing*.

There were no comments.

Chairperson Linda Morey closed the *Public Hearing*.

A motion was made by Judith Hazen, seconded by David Martin to grant “Preliminary” Single Lot Subdivision Approval pursuant to Town Code§520-66 for premises located at 343 Morton Road, Hamlin. This is a Type II SEQR.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. All in favor. Motion carried.

A motion was made by Judith Hazen, seconded by Dave Martin to grant “Final” Single Lot Subdivision Approval pursuant to Town Code§520-66 for premises located at 343 Morton Road, Hamlin.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. All in favor. Motion carried.

AGENDA

SINGLE LOT SUBDIVISION APPROVAL

ROBERT MANVILLE

162 WALKER LAKE ONTARIO ROAD, HAMLIN

Application for Robert Manville seeking “Preliminary & Final” Single Lot Subdivision Approval pursuant to Town Code§520-66 for premises located at 162 Walker Lake Ontario Road, Hamlin.

Adam Freeman of LandTech represented Mr. Manville.

The property is located on Walker Lake Ontario Road between North Hamlin Road and the Parkway. It consists of an existing house and barn along with a private road, 4 lots and a large pond. We are looking to subdivide off the pond and the road so Mr. Manville can transfer ownership to an L.L.C. (which would stay in his possession) basically for liability purposes associated with both the pond and the private drive. Adam provided smaller maps to the Board showing the driveway. The 40 ft. setback between the property line and the pond has been met for the proposed lot lines. The existing lot lines are in place. Linda Morey remarked that the house has a walkway that goes out to the pond. Is it a dock as well as a deck? There is an existing shed that will have to be moved because it will not meet the setback requirements, or it will need a variance.

Linda Morey asked if a new variance would be needed for the deck and dock. It appears that they are permanent. It may be on an easement. It may need a variance. It is an accessory structure without a principal structure.

J.P.Schepp stated that it is being subdivided for legal reasons and as far as a lot is concerned it meets definition as a lot under the Towns definitions.

Ken Licht commented that it has to be determined if the dock and deck are structures. If they are accessory structures they need a variance.

Linda Morey remarked that it looks like the dock could be removed but that the deck looks like it is not moveable.

Peter Tonery asked if the deck was anchored. Adam responded that he doesn't know as he hasn't been to the site. Dave Wolfe asked what the size of the deck is. Adam was not sure but it looks like it is 10 x 16 or close to it. Adam suggested that Chad go to the site to inspect and have his determination of whether or not it is a structure and if a variance is needed. Linda asked that if the pond is on a lot by itself would it also not need a

variance. Ken Licht commented that in 2012 we tried to get rid of the necessity of the variances when we are talking about the alteration of lot lines or lot combinations that there would be no increase in the non-conformity you would not have to get a variance. But that only applies if there is an alteration of a lot line or a lot combination. This is a new lot being created; the pond has been there a long time it is where it is. A new lot is being created with a non-conformity on it. The waive requirement section under 520-66 does not strictly apply to the south end of the pond issue in this case. The existing easement is described as ingress/egress utility and lawn easement to lot #1. If there is an easement it terminates at the property line. It is not an access easement to Greenwell.

Conservation has not discussed this as of yet.

The new L.L.C. will own the pond. The purpose of the easement is to allow whoever owns this lot in the future would still be able to access the pond. Lot #2 is basically the pond and the access road. It would need 2 variances and a copy of the easement. No variance would be needed for the house as it has a 37 ft setback. Ken mentioned that the barn is in front of the house. There was an approved plan for construction of the house and the barn in 2002. There was an area variance granted in 2002 for the location for the proposed barn. Variances will be needed for the east, south and west boundary on the pond, the shed, and the deck. The dock will also need a variance if it is not moveable. Ken stated that the Legal Notice for the Zoning Board of Appeals should provide how much of a setback is requested for the pond.

A motion was made by Peter Toney, seconded by Steve Lauth to send the Applicant Robert Manville to the Zoning Board for a variety of variances for property located at 162 Walker Lake Ontario Road, Hamlin.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Toney aye, and Dave Wolfe aye. All in favor. Motion carried.

AGENDA

SINGLE LOT SUBDIVISION

**KATHY A. BROCKSOPP
3397, 3385, 3391 BRICK SCHOOLHOUSE ROAD, HAMLIN**

Application for Kathy A. Brocksopp seeking “Preliminary and Final” Single Lot Subdivision Approval pursuant to Town Code§520-66 for premises located at 3397, 3385, 3391 Brick Schoolhouse Road, Hamlin.

Rich Maier represented Kathy A. Brocksopp.

The location of the property is the south side of Brick Schoolhouse Road, Hamlin between Wiler Road and Lake Road East Fork. There are currently 3 parcels there in the original subdivision called Whispering Willow Subdivision. When the subdivision was created there were 2 lots and the 3rd lot was to be retained by the owners. The current owner owns all 3 parcels. In an effort to try to move she built a house on Lot#1 and then had a structure built. When a survey was done for the transfer for the sale of the house it was discovered the property line goes through the building. We are suggesting moving the property line from Lot #1 as it is far enough to the east of the structure to make it conforming. In doing so we are creating a 3rd lot that was not named before. The original subdivision had a cross access easement going back to the 2 back parcels. We are going to utilize the current driveway as a part of that easement for ingress/egress.

J.P. Schepp had no engineering concerns because we don't have any site plans. As far as the lots go they are conforming lots of 5 acres. We are creating 2 flag lots. For subdivision purposes no engineering issues. Down the line the Town's Code really doesn't get into flag lots in terms of the description of what they are other than a definition that states it is a parcel of land that abuts to a main street with only a small access. It

defines what one is but then there are no regulations of where the front setback is measured from and how wide that piece to the road needs to be. Down the road flag lot regulations should be looked at. Ken Licht agreed with J.P. He has no legal concerns creating the subdivision other than the easement. There is nothing in our code restricting this type of flag lot, as long as they can put in a legal driveway. It is a good topic for future discussion.

Conservation Advisory Board had no comments.

Linda Morey asked if the easements would be ready for next month so Ken could have a look at them. Rich had the easements for Ken. A Public Hearing should be scheduled for a review of the easements.

A motion was made by Dave Wolfe, seconded by Mark Reeves for the application for Kathy A. Brocksopp for a Public Hearing on December 2, 2013 looking for subdivision easements for premises located at 3397, 3385, & 3391 Brick Schoolhouse Road, Hamlin.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. All in favor. Motion carried.

DISCUSSION

Linda Morey brought up the topic of Code Revisions. Ken Licht wrote a working document for all to review. The most important thing to understand is the 62 days. Is it 62 days from receipt of the application or 62 days after the Public Hearing? The code now states that you have to have a Public Hearing so it would be 62 days from the Public Hearing. Ken added that you don't have to have a Public Hearing. I am suggesting that if you don't want to have a Public Hearing in all cases then have a provision to determine whether or not you want a Public Hearing. Probably at the time the application comes in. We had minor applications in Sept. & Oct. that the Board felt that a Public Hearing was not required. A code revision is needed to give the authority to dispense with that. There is no legal requirement for a Public Hearing except for what the Town of Hamlin has put in their code. There is no State requirement for it on the site plan. It is suggested to leave it to the discretion of the Planning Board for each application to make a determination as to whether they want a Public Hearing on the site plan. Site plans can be very different; they can be for a shopping plaza, a factory coming in or a very minor change for an existing strip plaza. That determination would be made by a motion. The Board would have a specific reason supported by some discussion. It is really about whether the public is being served. A site plan waiver would require that an engineer prepares the site plan. All members agreed on the verbiage and to forward it on to the Zoning Workshop for their opinion.

The next topic brought up by the Chairperson was Certificate of Occupancy. The question of after a 12 month period of a business not being continued does that make it non-conforming, and the owners have to start the process all over again. Ken did find it in the code. If the business is closed for a year that makes it non-conforming. A business can be replaced or rebuilt but it cannot expand. If after the year the process will need to be started again. It will need site plan approval, might need a zoning change at that point. It also might become pre-existing non-conforming by virtue of a zoning change or upgrade which may eliminate the commercial use for a certain area. An example is the Goltermann property which had multiple uses in that building. There was the gas station out front, automobile repair inside, video rental and coffee and food sales. It is still under the umbrella of non-conforming but it is a different kind of problem that is somewhat relevant. By extension it may change to a conforming lot, a good example might be the Pizza Shack. They may go out of business as a restaurant for a year and then another person comes and wants to open a different business. Ken

has the most trouble with the gas station. That is a Special Permit Use in any zoning district that you have. It has to be renewed annually. According to the DEC if a station has been abandoned for a year it falls under NYS fire code. If it is unused, abandoned, ceased operation the tanks have to be emptied, cleaned, purged of vapor, and filled with sand or concrete. Then they cannot be used again. It is up to the Code Enforcement Officer to enforce this section. The tanks are still in at Bob's Grocery. These should be taken care of first and then focus on the Goltermanns.

Town Councilperson David Rose reported on the Hamlin Library. A lease has been signed for 40 years. The leased property size is 150' x 340'. If the Library ceases to exist it will be part of Town property. It will be built east of the swale. The building will be 60 x 100 in size. In front of the swale will be a forever green area. The soil samples were done by excavating not by boring. The soil engineers were present to examine the soil condition. Top soil has to be removed then select fill will be brought in. The Highway department will be doing the site work. They will be paid by the Library for the site work. It will take 3 days to excavate the footprint with select fill brought in and compacted. Bids for the Library will be opening on November 21st at 3:00 pm at the Library. There have been changes to the interior for better function purposes. The SEQR has been taken care of. Clark Patterson is still involved. They were paid to design the building and they have to honor their obligation. The Clerk of the Works, Charlie Hungerford, has agreed to hire out to the Library to oversee the project. Linda Morey asked if they have enough space to add on in the future if needed. Dave said yes. The parking is near the Quonset hut. There are 16 spots with more to be added next year. The metal building will stay. There is a good distance from the building to the Library for parking. Linda commented and the planning board members agreed, that this was the site we originally wanted the Library on and it will help them grow in the future.

The Budget is a work in progress. Budget mtg. was scheduled for 11-7-2013 (Mtg. has since been cancelled). Conservation had nothing to add.

Dave Wolfe handed out a checklist he got from the NYS Justice site for minor commercial site review checklists.

ADJOURNMENT

A motion was made to adjourn tonight's meeting by Mark Reeves and seconded by Dave Wolfe barring no further business.

Members polled: Judith Hazen aye, Steve Lauth aye, Dave Martin aye, Linda Morey aye, Mark Reeves aye, Peter Tonery aye, and Dave Wolfe aye. All in favor. Motion carried.

Minutes respectfully submitted by:

Cheryl J. Pacelli
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Planning Board will be held on Monday, December 2, 2013 at 7:30 pm. Deadline for applications and fees is November 19, 2013 at 12 noon.

